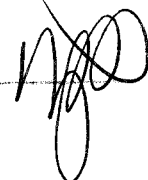


CLERK US DISTRICT COURT  
NORTHERN DISTRICT OF TX  
FILED

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

DEPUTY CLERK

2015 JAN 20 PM 4:25  


CITY OF KAUFMAN, TEXAS

No.

v.

MICHAEL CROCKER,  
Defendant

**3-15CR-0013M**

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF TEXAS:

Defendant Michael Crocker, by and through the United States Attorney for the Northern District of Texas and the undersigned Assistant United States Attorney, respectfully represents as follows:

1. On or about August 29, 2014, a criminal citation was filed by the City of Kaufman, Texas in the Municipal Court, City of Kaufman, Kaufman County, Texas, Cause No. 1400006434, at the behest of Complainant Diane Dolores Fagula, against Michael Crocker, charging him with disorderly conduct, arising from incidents occurring between August 18-23, 2014, at 206 E. South Street, Kaufman, Texas 75142. On those dates, while attempting to deliver mail in the scope of his employment as a United States Postal Service Mail Carrier, Mr. Crocker was harassed by an aggressive dog at that residence, and was falsely accused by the residents of cursing at them. Mr. Crocker denies these allegations. At all times, Mr. Crocker's actions in communicating with the

were necessary and proper. Mr. Crocker believed that his conversations with the residents were justified under the circumstances.

2. Trial of this matter filed in the City of Kaufman Municipal Court has not commenced. Filing of this notice of removal is therefore timely under 28 U.S.C. § 1446(c)(1).

3. Defendant Crocker was served with a copy of the criminal citation concerning this matter by United States mail. A copy of the citation is attached hereto as Government Exhibit "A."

4. The above-entitled action is one which may be removed to this Court pursuant to 28 U.S.C. § 1442(a)(1), in that this is a criminal action commenced against a postal carrier for the United States Postal Service, for actions taken under color of such office and within the scope of Michael Crocker's employment. Defendant Crocker is being charged for actions he allegedly took while acting under color of federal law.

5. To the extent that any acts or omissions of Defendant Michael Crocker, while acting under color of such office and within the scope of his employment, affected the Complainant, Diane Dolores Fagula, the Defendant is immune from prosecution under the doctrine of "federal supremacy." See Mesa v. California, 489 U.S. 121, 133 (1989); Willingham v. Morgan, 395 U.S. 402, 405 (1969).

6. Alternatively, removal is appropriate under Sec.1442(a) due to the federal interest in preventing the harassment of federal officials by disgruntled patrons through the filing of criminal complaints with state law enforcement agencies.

7. Pursuant to the provisions of 28 U.S.C. § 1446(a), copies of all incident reports served upon the Defendant are attached hereto as Government Exhibit "B."

8. A copy of the Notice of Filing of this Notice of Removal to be filed with the City of Kaufman Municipal Court in accordance with 28 U.S.C. § 1446(d) is attached hereto as Government Exhibit "C."

WHEREFORE, Defendant Michael Crocker respectfully represents that the above-captioned action now pending in the Municipal Court, City of Kaufman, Kaufman County, Texas, Cause No. 1400006434, is properly removed therefrom to this Court.

Respectfully submitted,

JOHN R. PARKER  
ACTING UNITED STATES ATTORNEY

  
J. MARK PENLEY

Assistant United States Attorney  
Texas Bar No. 15750700  
1100 Commerce Street, Third Floor  
Dallas, Texas 75242-1699  
Telephone: 214-659-8619  
Facsimile: 214-659-8805  
Email: Mark.Penley@usdoj.gov


CERTIFICATE OF SERVICE

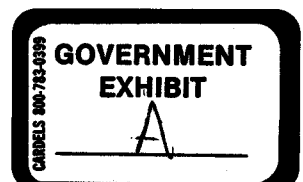
It is hereby certified that service of the foregoing Notice of Removal has been made on 20<sup>th</sup> day of January, 2015, by certified mail and by facsimile to:

Clerk  
Kaufman Municipal Court  
209 S. Washington  
Kaufman, TX 75142  
Facsimile: 972-932-0307

and

Nichols, Jackson and Dillard  
Attorneys at Law  
1800 Lincoln Plaza  
500 N. Akard  
Dallas, Texas 75201

  
J. MARK PENLEY  
Assistant United States Attorney



**Kaufman Police Department**

Page 1

**INCIDENT Report**

ORI: TX1290200

Incident No. 1400006897

9/10/2014

**Incident**

CAD No.	Other No	Type	Non-Criminal	Date Occur	09/07/2014 10:40
Status	Open	Clear. Date	Audited By:	Exc. Clear.	
Inv. Status	Report By: Todd, Cristofori	09/07/2014	Approv. By: Gilmore, Johnny	09/08/2014	
Fam. Viol.	No	Narrative	Investigator	Unknown	
Description					
Welfare concern (Animal)					

Dispatch Location

**- Offense No. 1**

Offense Recording Date 09/07/2014 11:56

Off. Begin Date	09/07/2014 10:40	Off. End Date	09/07/2014 10:40	Entry Method	Attempt/Complete
Drug Seized		Gang Related		Hi-Speed Pursuit	Weapons Used
Offense Code	Wel Con L/D	Offense	Welfare Concern		No. of Premises
Bias Motivation		Agg Asslt/Homic. Circumst.		Supplement: 0	
Offense Addr.	206 E South St Kaufman				Loc. Type Resident - Single
Remarks	Welfare concern - animal.				

**Victim(s)**

Name	DOB	Race	Sex	DL	Address
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**Victims (Organizations)**

Name	Phone	Address
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**Other Involved Person(s)**

Name	Role	DOB	Race	Sex	DL	Address
Fagula, Diane Dolores	Complainant	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], Kaufman, TX 75142
HOPKINS, KATIE LYNN	Involved	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	206 E South St , Kaufman, TX 75142
Haley, Amy Jo	Involved	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	209 E South St , Kaufman, TX 75142

**Vehicle**

State	License	Status	Year	Make	Model	Body Style	Involved People
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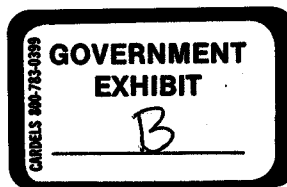
Color	Other Color	VIN
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Wrecker Co:

Wrecker Call'd:

Wrecker Arriv'd:

Remarks



# KAUFMAN POLICE DEPARTMENT

## Narrative

Date of report: 09/05/2014

Case Number: 1400006843

Incident Number :1400006843

On Friday, September 5, 2014 at approximately 1348 hours I, Officer Jordan Martin #919, was dispatched to 206 East South Street, in the City of Kaufman, Kaufman County, Texas in reference to an animal complaint.

Upon arrival, I met with Michael Crocker, [REDACTED]. Crocker advised that one of the dogs at 206 East South was chasing him and being aggressive. Crocker advised the dog has done this several times and that he can no longer deliver mail to the address. Crocker advised that the resident was cursing at him. Crocker advised his supervisor was on her way to our location.

Latosila Dora, [REDACTED] arrived on scene and advised that she wanted something done about the incident.

I then met with the resident at 206 East South Street, who was identified as Amy Haley, [REDACTED]. Haley advised that Crocker torments the dog. Haley advised that Crocker has cursed at her before and he has stood outside laughing at her. Haley advised that multiple mail delivery people have delivered mail to that residence before and nobody else ever had an issue. Haley advised that the dog never got out of the yard and did not chase him. I advised Haley that I was not sure if the animal control officer could do anything, but I was not sure of the animal control laws. I then left the location and contacted ACO Norris #938.

I advised ACO Norris of the incident and he advised that there were further actions that could be taken if the dog was deemed to be dangerous. Norris advised he wanted to go to the residence and advise her of the options that she had.

Norris and I arrived at 206 East South Street and met with Haley. Norris advised Haley that if the dog was deemed dangerous that she would have 30 days to get an insurance policy on the animal or the animal would be seized. Haley became aggravated and began yelling, at that time Norris and I left the location without further incident. N.F.I.

Officer: Martin, Jordan

Approving Supervisor: Dykes, Michael

**Kaufman Police Department**

Page 1

**INCIDENT Report**

ORI: TX1290200

Incident No. 1400006843

9/10/2014

**Incident**

CAD No.	Other No.	Type	Non-Criminal	Date Occur	09/05/2014 13:48
Status	Open	Clear. Date	Audited By:	Exc. Clear.	
Inv. Status	Report By: Martin, Jordan		09/05/2014	Approv. By: Dykes, Michael	09/06/2014
Fam. Viol. No	Narrative	Investigator	Unknown		
Description					
Animal Complaint					

Dispatch Location

**Offense No. 1**

Offense Recording Date 09/06/2014 06:10

Off. Begin Date	09/05/2014 13:48	Off. End Date	09/05/2014 13:48	Entry Method	Attempt/Complete
Drug Seized		Gang Related		Hi-Speed Pursuit	Weapons Used
Offense Code	Nuisance L/D	Offense	Animal Nuisance		No. of Premises
Bias Motivation				Agg Asslt/Homic. Circumst.	Supplement: 0
Offense Addr.	206 E South St Kaufman				Loc. Type Resident - Single
Remarks					

**Suspect(s)**

Name	DOB	Race	Sex	DL	Address
Haley, Amy Jo	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	209 E South St , Kaufman, TX 75142

**Victim(s)**

Name	DOB	Race	Sex	DL	Address
Crocker, Michael Gerald	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], KEMP, TX 75143

**Victims (Organizations)**

Name	Phone	Address
------	-------	---------

**Other Involved Person(s)**

Name	Role	DOB	Race	Sex	DL	Address
Crocker, Michael Gerald	Complainant	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], KEMP, TX 75143
Dora, Latosila Cook	Involved	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], Arlington, TX

**Vehicle**

State	License	Status	Year	Make	Model	Body Style	Involved People
-------	---------	--------	------	------	-------	------------	-----------------

Color	Other Color	VIN
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Wrecker Co:

Wrecker Call'd:

Wrecker Arriv'd:

Remarks



NO. 1400006434

CITY OF KAUFMAN, TEXAS,  
Plaintiff

v.

MICHAEL CROCKER,  
Defendant

IN THE MUNICIPAL COURT

CITY OF KAUFMAN

KAUFMAN COUTY, TEXAS

NOTICE OF FILING OF NOTICE OF REMOVAL

Please take notice that on January 20, 2015, Defendant Michael Crocker, by and through his undersigned counsel, filed with the United States District Clerk for the Northern District of Texas, Dallas Division, a Notice of Removal of the above-entitled cause to the United States District Court. A copy of the Notice of Removal is attached hereto in accordance with the provisions of 28 U.S.C. § 1446(d).

Dated: January 20, 2015.

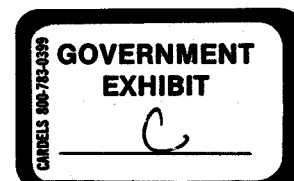
Respectfully submitted,

JOHN R. PARKER  
ACTING UNITED STATES ATTORNEY

  
J. MARK PENLEY

Assistant United States Attorney  
Texas Bar No. 15750700  
1100 Commerce Street, Third Floor  
Dallas, Texas 75242-1699  
Telephone: 214-659-8619  
Facsimile: 214-659-8805  
Email: Mark.Penley@usdoj.gov

ATTORNEY FOR DEFENDANT  
MICHAEL CROCKER



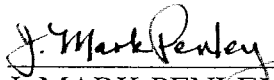
CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing Notice of Filing of Notice of Removal has been made on 20<sup>th</sup> day of January, 2015, by certified mail and by facsimile to:

Clerk  
Kaufman Municipal Court  
209 S. Washington  
Kaufman, TX 75142  
Facsimile: 972-932-0307

and

Nichols, Jackson and Dillard  
Attorneys at Law  
1800 Lincoln Plaza  
500 N. Akard  
Dallas, Texas 75201

  
\_\_\_\_\_  
J. MARK PENLEY  
Assistant United States Attorney